



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,959	07/16/2003	Myron K. Gordin	P05717US01	9987

22885 7590 04/29/2005

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,959

Applicant(s)

GORDIN ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 2-9, 46-48, 57-59, and 74-76 are objected to as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims throughout are drawn a pole, appearing to be a combination. However, the preamble of the independent claim are drawn to a covering material, appearing to be a subcombination. The claims will be examined as a combination of a covering material and pole. Applicant must clarify in any following amendment.

Claims 40 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The textured limitation of claim 1 is duplicated in claim 40.

Drawings

The drawings are objected to because they contain text. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19, 21, 31-50, 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,543,764 to Kozikowski.

Regarding claims 1, 42, Gordin discloses a sleeve positionable around a part of an existing pole (fig. 11), the sleeve having the texturing of a steel sleeve. However, Gordin does not disclose the sleeve as being made of a non-corrosive material. Kozikowski discloses the use of a vinyl sleeve for poles (column 4, lines 67-68). It would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify Gordin by adding a vinyl sleeve, as disclosed by Kozikowski in order to prevent rust from destroying the pole.

Regarding claims 2, 46, Gordin discloses the basic claim structure of the instant application but does not disclose specific dimensions of the pole. Applicant fails to show criticality for specifically claimed dimensions of the pole, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 3, Gordin discloses the pole as tubular.

Regarding claim 4, Gordin discloses the use of steel for building poles (column 2, lines 28-29).

Regarding claim 5, Gordin discloses the pole as tapered (fig. 11).

Regarding claim 6, Gordin discloses the pole as slip fitted to a base in the ground (fig. 12).

Regarding claim 7, Gordin discloses the pole as being elongated (fig. 7).

Regarding claim 8, Gordin discloses the pole as being made of a plurality of sections (fig. 7: 72 & 76).

Regarding claim 9, Gordin does not specifically disclose the sections as slip fitted together, however the sections are inherently capable of being slip fitted together, as they have a truncated conical shape enabling them to do so.

Regarding claim 10, Gordin in view of Kozikowski discloses a covering layer for pole sections.

Regarding claims 11, 12, 48, 49, Gordin discloses the layers as overlapping (fig. 7).

Regarding claim 13, Gordin discloses the sleeve as a covering sheet material.

Regarding claim 14, Gordin discloses the use of steel which is flexible.

Regarding claims 15, 16, 50, Gordin in view of Kozikowski discloses the use of vinyls and other similar components (column 4, line 67 – column 5, line 20).

Regarding claims 17, 18, Gordin discloses the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 19, Gordin in view of Kozikowski discloses the sleeves as having a top, bottom, and sides if placed in an unrolled position.

Regarding claim 21, Gordin discloses the sleeve as being in a trapezoidal shape when in a flat configuration, since Gordin disclose the sleeve as a truncated cone shape.

Regarding claims 31, 32, Gordin discloses an opening in the covering layer (fig. 11: see bottom of 92) for fitting over the structure.

Regarding claims 33, 34, Gordin discloses a sealant (fig. 11: 108) between the sleeve and top of pole.

Regarding claim 35, Gordin discloses the sealant as inherently capable of being similar to a caulk type material (fig. 11: see spread on 108).

Regarding claim 36, Gordin discloses the sleeves as substantially covering the pole (fig. 7).

Regarding claim 37, Gordin discloses the sleeves as having an inherent color.

Regarding claim 38, 39, Gordin does not specifically disclose the pole as being colored to match an environmental feature or specific team colors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to paint the sleeves with an appropriate team color or turf color, as stadiums throughout the world are regularly painted to match a theme or their home team colors.

Regarding claims 40, 41, 53, Gordin discloses the sleeves as having the texture and pattern of a steel pole.

Regarding claim 43, Gordin does not disclose the sleeves as wrapped around the pole. Kozikowski discloses the sleeve as wrapped around the pole (column 2, lines 59-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin by wrapping the sleeves, as disclosed by Kozikowski in order to speed repair and construction.

Regarding claim 44, Gordin discloses securing the sleeves adjacent to one another.

Regarding claim 45, Gordin discloses the sleeves as secured from longitudinal movement (fig. 7).

Regarding claim 47, Gordin discloses the sleeves as tapered (fig. 11) and if placed in a flat position, would inherently be trapezoidal.

Regarding claim 52, Gordin discloses the top of the sleeves as sealed to the top of the pole (108).

Regarding claim 54, claim 54 is rejected for reasons cited in the rejections of claims 1, 2 and 36.

Claims 20, 22-27, 51, 55-64, 67-81, and 84-89, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,543,764 to Kozikowski further in view of U.S. Patent No. 3,968,561 to Oakes et al.

Regarding claim 20, 51, Gordin in view of Kozikowski does not disclose the sleeves, when laying flat, as having the opposite side edges rolled into a U shape. Oakes discloses a pole sleeve having opposite edges rolled into a U shape (fig. 2: 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Kozikowski by using the U shaped ends of Oakes in order to secure the sleeve around the pole in a tighter manner.

Regarding claim 22, Gordin discloses the sleeve as being in a trapezoidal shape when in a flat configuration, since Gordin disclose the sleeve as a truncated cone shape.

Regarding claim 23, 60, 77, Gordin discloses the side edges as not overlapping (fig. 7).

Regarding claim 24, 61, 78, Oakes discloses a C shaped fastener to secure the sleeve (fig. 2: 19).

Regarding claim 25, 62, 79, Oakes discloses the fastener as having a base and inwardly angled walls at opposite sides defining an opening (fig. 2: 19).

Regarding claims 26, 27, 63, 64, 80, 81, Oakes discloses the walls as inherently deformable.

Regarding claim 55, claim 55 is rejected for reasons cited in the rejections of claims 20, 22, and 24.

Regarding claim 56, Gordin discloses a sleeve positionable around a part of an existing pole (fig. 11), the sleeve having the texturing of a steel sleeve. However, Gordin does not disclose the sleeve as being made of a non-corrosive material. Kozikowski discloses the use of a vinyl sleeve for poles (column 4, lines 67-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin by adding a vinyl sleeve, as disclosed by Kozikowski in order to prevent rust from destroying the pole. In addition, claim 56 is also rejected for reasons cited in the rejection of claim 20.

Regarding claim 57, Gordin in view of Kozikowski further in view of Oakes discloses the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 58, Gordin discloses the sleeve as tapered (fig. 11).

Regarding claim 59, Gordin discloses the pole as being elongated (fig. 7).

Regarding claim 67 Gordin discloses the sleeves as substantially covering the pole (fig. 7).

Regarding claim 68, Gordin discloses the sleeves as having an inherent color.

Regarding claim 69, 70, Gordin does not specifically disclose the pole as being colored to match an environmental feature or specific team colors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to paint the sleeves with an appropriate team color or turf color, as stadiums throughout the world are regularly painted to match a theme or their home team colors.

Regarding claims 71 and 72, Gordin discloses the sleeves as having the texture and pattern of a steel pole.

Regarding claim 73, claim 73 is rejected for reasons cited in the rejection of claims 20 and 22.

Regarding claim 74, Gordin discloses the basic claim structure of the instant application but does not disclose specific dimensions of the pole. Applicant fails to show criticality for specifically claimed dimensions of the pole, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 75, Gordin discloses the pole as tapered (fig. 11).

Regarding claim 76, Gordin discloses the pole as being elongated (fig. 7).

Regarding claim 84, Gordin discloses the sleeves as substantially covering the pole (fig. 7).

Regarding claim 85, Gordin discloses the sleeves as having an inherent color.

Regarding claim 86, 87, Gordin does not specifically disclose the pole as being colored to match an environmental feature or specific team colors. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

paint the sleeves with an appropriate team color or turf color, as stadiums throughout the world are regularly painted to match a theme or their home team colors.

Regarding claims 88, 89, Gordin discloses the sleeves as having the texture and pattern of a steel pole.

Claims 28-30, 82 and 83, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,543,764 to Kozikowski further in view of U.S. Patent No. 4,092,079 to Swanson.

Regarding claims 28 and 82, Gordin in view of Kozikowski does not disclose the use of fasteners. Swanson discloses a sleeve for a pole using fasteners to secure the sleeve (fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Kozikowski by using fasteners, as disclosed by Swanson, in order to better secure the sleeves.

Regarding claim 29, 83, Swanson discloses the use of screws (49).

Regarding claim 30, Swanson discloses bolts (49) and nuts (51).

Claims 65 and 66, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,543,764 to Kozikowski further in view of U.S. Patent No. 3,968,561 to Oakes et al. further in view of U.S. Patent No. 4,092,079 to Swanson.

Regarding claim 65, Gordin in view of Kozikowski further in view of Oakes does not disclose the use of fasteners. Swanson discloses a sleeve for a pole using fasteners to secure the sleeve (fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Kozikowski further in view of Oakes by using fasteners, as disclosed by Swanson, in order to better secure the sleeves.

Regarding claim 66, Swanson discloses screws (49).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to pole sleeves in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.


Basil Katcheves

BK

4/26/05

Examiner AU 3635